

REMARKS

In the Office Action, the Examiner requires Applicant to elect a single species and to elect certain of the Application's claims for further examination.

Applicant initially notes that the Examiner apparently did not consider the claim amendments and the new claims included in Applicant's Preliminary Amendment filed 11 July 2003 (the "Preliminary Amendment") before issuing the Office Action. Apparently, the Examiner had not yet received the Preliminary Amendment when preparing the Office Action. Nevertheless, in addressing herein the matters raised in the Office Action, Applicants will assume that the claims as amended and supplemented by the Preliminary Amendment are those currently under examination by the Examiner. In addition, Applicant herein amends claims 12-14. Thus, the claims that should be considered under examination prior to Applicant's election herein are claims 1, 2, 4-54 as shown in the above listing of the claims.

In Paragraph 1 of the Office Action, the Examiner concludes that the Application contains claims directed to more than one patentably distinct species of the claimed invention. In response, Applicant elects the following species:

- for layer 22, material (a) nickel-titanium alloy;
- for layer 24, material (a), nickel-titanium alloy;
- for second plate 30, material (e) alpha-beta titanium alloy; and
- for third plate 40, material (e) alpha-beta titanium alloy.

Also in paragraph 1 of the Office Action, the Examiner requires that Applicant elect either claims 1-23 and 45-49 (directed to an armor or article) or

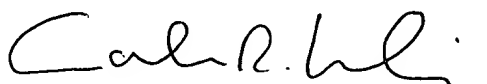
claims 24-44 (directed to a method of making an armor). In response to this requirement, Applicant elects claims 1, 2, 4-23 and 45-49, as amended in the Preliminary Amendment and as further amended herein. Applicant canceled claim 3 in the Preliminary Amendment, so it is not included in the election. New claims 50-54 added in the Preliminary Amendment are directed to a "method of protecting an article of manufacture against penetration from an impacting projectile." Given the apparent similarity between the subject matter of claims 50-54 and the subject matter of elected claims 47-49 (directed to a "method of absorbing energy from a projectile"), it is submitted that claims 50-54 also should be examined along with the elected claims. Thus, Applicant elects claims 1, 2, 4-23 and 45-54 as presented in the listing of the claims herein for further examination in the Application.

A further requirement of the Examiner in Paragraph 1 of the Office Action is that Applicant identifies each claim that reads on Applicant's elected species (the "Elected Species"). As noted above, the Elected Species includes: an energy absorbing layer 22 containing nickel-titanium alloy; an energy absorbing layer 24 containing nickel-titanium alloy; a second plate 30 containing alpha-beta titanium alloy; and a third plate 40 containing alpha-beta titanium alloy. Of the elected claims (1, 2, 4-23 and 45-54), claims 1, 2, 4-11, 15-23 and 45-54 may read on the Elected Species, but only if the particular properties, structural, and/or compositional limitations in those claims are identically present in the Elected Species, which is not apparent from the election.

CONCLUSION

The present response amends the Application's claims 12-14, and also elects certain claims and species. Applicant respectfully submits that claims 1, 2, 4-23 and 45-54 as presented in the listing of claims herein remain under examination and should be held patentable. Accordingly, Applicant requests that these claims be passed allowance at an early date.

Respectfully submitted,



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